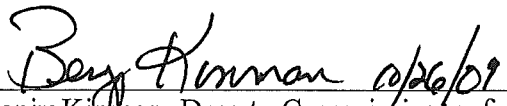
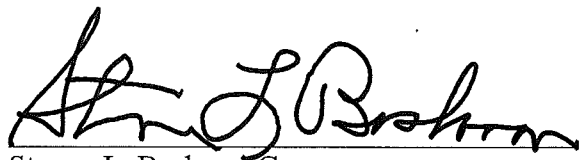


STATEMENT OF EMERGENCY  
301 KAR 2:222E

- (1) This emergency administrative regulation establishes season dates, limits, shooting hours and other requirements for hunting waterfowl on public lands.
- (2) Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season in Kentucky. An ordinary administrative regulation will not suffice because the federal framework is not established until days before the start of the waterfowl season.
- (3) This emergency administrative regulation shall be replaced by an identical ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler by November 15, 2009.

  
Benjy Korman, Deputy Commissioner, for  
Dr. Jonathan Gassett, Commissioner  
Department of Fish and Wildlife Resources

  
Steven L. Beshear, Governor  
Commonwealth of Kentucky

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Emergency Amendment)

4 301 KAR 2:222E. Waterfowl hunting requirements on public lands.

5  
6 RELATES TO: KRS 150.010(40), ~~[150.025(1);~~ 150.305(1), 150.330, 150.340(1), (3),  
7 ~~[150.600(1);~~ 150.990~~], 50 C.F.R. Parts 20, 21]~~

8 STATUTORY AUTHORITY: KRS 150.025(1), 150.360, ~~[(a), (b), 150.340;~~ 150.600(1), 50  
9 C.F.R. ~~[Parts]~~ 20, 21

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes ~~[and 150.600(1)~~  
11 ~~authorize]~~ the department to promulgate administrative regulations to establish open seasons for  
12 the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to  
13 restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking  
14 of waterfowl on public and private land. ~~[statewide waterfowl hunting requirements and to~~  
15 ~~specify seasons and other requirements on Wildlife Management Areas and other areas. KRS~~  
16 ~~150.340 authorizes the department to establish bag limits for waterfowl.]~~ This administrative  
17 regulation establishes procedures for the taking of waterfowl within reasonable limits and within  
18 the frameworks established by 50 C.F.R. Parts 20 and 21. ~~[site-specific restrictions on areas in~~  
19 ~~Kentucky regarding waterfowl requirements to optimize public use within sound waterfowl~~  
20 ~~conservation practices. EO 2008-516, effective June 16, 2008 reorganizes and renames the~~  
21 ~~Commeree Cabinet as the Tourism, Arts and Heritage Cabinet.]~~

22 Section 1. Definitions. (1) "Blind" means a concealed enclosure, pit, or boat.~~[:~~

1 ~~(a) A concealing enclosure;~~

2 ~~(b) A pit; or~~

3 ~~(c) A boat.]~~

4 (2) "Blind site" means a specific location where waterfowl hunting is allowed, as approved by  
5 the department or the U.S. Army Corps of Engineers. ~~[identified by the department or approved~~  
6 ~~by the U.S. Army Corps of Engineers where hunting is permitted.]~~

7 (3) "Department blind" means a permanently fixed blind structure built by the department.

8 ~~(4)~~ "Layout blind" means a portable blind that when fully deployed allows one (1) person to be  
9 concealed above the surface of the ground.

10 ~~(5) [(4)]~~ "Party" means a person hunting alone or two (2) to four (4) people who share a blind or  
11 blind site.[:

12 ~~(a) A person hunting alone; or~~

13 ~~(b) From two (2) to four (4) persons who share a blind or blind site.]~~

14 ~~(6) [(5)]~~ "Permanent blind" means a blind left in place by a waterfowl hunter longer [more] than  
15 twenty-four (24) hours.

16 ~~(7) [(6)]~~ "Regular waterfowl season" means the open waterfowl season that does not include the  
17 Light Goose Conservation Order or the September wood duck, teal, and Canada goose seasons as  
18 established in 301 KAR 2:221.

19 ~~[late migratory bird hunting seasons referred to in 50 C.F.R. Part 20.~~

20 ~~(7) "Statewide waterfowl seasons" means the provisions of this administrative regulation and of~~  
21 ~~301 KAR 2:221.]~~

22 (8) "Waterfowl" is defined in KRS 150.010(40).

23 (9) "Wildlife Management Area" or "WMA" means a tract of land:

1 (a) Controlled by the department through ownership, lease, license, or cooperative agreement;

2 and

3 (b) That has "Wildlife Management Area" or "WMA" as part of its official name.

4 Section 2. Shot requirements. A person hunting waterfowl [hunter] shall not use or possess  
5 [carry] a shotgun shell:

6 (1) Longer than three and one-half (3 1/2) inches; or

7 (2) Containing [shot]:

8 (a) Lead shot; [Made of lead;]

9 (b) Shot not [Not] approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or

10 (c) Shot larger [Larger] than size "T."

11 [~~Section 3. In the Ballard Reporting Area, as described in 301 KAR 2:224:~~

12 ~~(1) A waterfowl hunter shall:~~

13 ~~(a) Hunt from a blind unless hunting in flooded, standing timber;~~

14 ~~(b) Not hunt from or establish a blind:~~

15 ~~1. Within 100 yards of another blind; or~~

16 ~~2. Within fifty (50) yards of a property line; and~~

17 ~~(c) Not possess more than one (1) shotgun while in a blind.~~

18 ~~(2) The requirements of subsection (1) of this section shall not apply when the Conservation~~

19 ~~Snow Goose Order, as established in 301 KAR 2:221, is the only waterfowl season open,~~

20 ~~excluding falconry seasons.]~~

21 Section 3. [4.] (1) Except as specified in this section or in Section 5 of this administrative  
22 regulation, on a Wildlife Management Area:

23 (a) A person hunting waterfowl [hunter] shall not establish or hunt from:

- 1 1. A permanent waterfowl blind; or
- 2 2. A waterfowl blind within 200 yards of:
  - 3 a. Another waterfowl blind; or
  - 4 b. A waterfowl refuge;
- 5 (b) A person shall not hunt in a designated recreation area or access point;
- 6 (c) More than four (4) persons shall not occupy a waterfowl blind; and
- 7 (d) A hunter shall remove decoys and personal items ~~[effects from the Wildlife Management~~
- 8 ~~Area]~~ daily, except that a hunter drawn for a multiday hunt may choose to leave decoys in place
- 9 for the duration of the hunt. ~~[hunt, at his or her own risk.]~~
- 10 (2) A person wanting ~~[wishing]~~ to establish or use a permanent waterfowl blind or blind site on
- 11 Lake Barkley ~~[Lake]~~, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake,
- 12 Paintsville Lake, Rough River Lake, Sloughs, or Doug ~~[Doug]~~ Travis Wildlife Management
- 13 Areas:
- 14 (a) Shall first obtain a waterfowl blind permit from the U.S. Army Corps of Engineers or the
- 15 department;
- 16 (b) May designate one (1) other person as a partner; and
- 17 (c) Shall not hold more than one (1) permit per area. ~~[area; and~~
- 18 ~~(d) Shall participate in a drawing for a blind permit on the Barkley, Barren, Green, Paintsville,~~
- 19 ~~Sloughs, or Doug Travis Wildlife Management Areas:~~
- 20 ~~1. At the time of the drawing, the hunter shall possess a valid hunting license, a Kentucky~~
- 21 ~~waterfowl permit and a federal waterfowl permit; and~~
- 22 ~~2. Shall be eighteen (18) years of age or older.]~~
- 23 (3) A person who participates in a drawing for a WMA blind permit shall:

1 (a) Be at least eighteen (18) years of age; and  
2 (b) Possess:  
3 1. A valid Kentucky hunting license;  
4 2. A Kentucky waterfowl permit; and  
5 3. A Federal duck stamp;  
6 (4) The holder of a waterfowl blind permit shall:  
7 (a) Construct or establish the [his or her] blind or blind site before November 20 or forfeit the  
8 permit;  
9 (b) Not lock a waterfowl blind; and  
10 (c) Remove the [Unless an extension of time is granted, remove his] blind and blind materials  
11 within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit  
12 the following year, unless an extension of time is granted by the department based on weather or  
13 water level conflicts.  
14 (5) [year:  
15 (4)] A permanent blind, department blind, or blind site not occupied by the permit holder one (1)  
16 hour before sunrise shall be available to another hunter on a first-come, first-served [first-serve]  
17 basis.  
18 (6) [(5)] A waterfowl blind restriction established [specified] in this section shall not apply to a  
19 falconer if a gun or archery season is not open.  
20 Section 4. [5. On a] Wildlife Management Area requirements. (1) The regular waterfowl season  
21 provisions [Area: (1)(a) Statewide waterfowl seasons] shall apply, as established in 301 KAR  
22 2:221, except as established [unless otherwise stated] in this section.  
23 (2) The provisions of this section

~~[(b) If specific hunting dates and times are given in this section, a person shall not hunt waterfowl except on those dates and times.~~

~~(c) Paragraph (b) of this subsection]~~ shall not apply to a waterfowl hunting season that opens prior to [opening before] October 15, as established in 301 KAR 2:225.

~~(3) [(2)]~~ A person shall not:

(a) Hunt on an area ~~[or portion of an area]~~ marked by a sign as closed to hunting;

(b) Enter an area ~~[or a portion of an area]~~ marked by signs as closed to public access; or

(c) Hunt a species on an area ~~[or a portion of an area]~~ marked by signs as closed to hunting for that species.

(4) On Wildlife Management Areas in Ballard County: ~~[(3) Wildlife management areas in Ballard County.]~~

(a) The shotgun shell possession limit shall be fifteen (15), except that the shotgun shell possession limit shall be twenty-five (25) if:

~~[Sliding shell limit scale:]~~

1. The ~~[shell limit shall be twenty-five (25) when the]~~ daily bag limit for ducks is greater than three (3) ~~[and the Canada goose limit is greater than or equal to two (2)]; and~~

2. The ~~[shell limit shall be fifteen (15) when the]~~ daily bag limit for Canada goose ~~[ducks]~~ is greater ~~[less]~~ than or equal to ~~[three (3) and the Canada goose limit is less than or equal to]~~ two (2);~~[-]~~

(b) At least one (1) person in a waterfowl blind shall be eighteen (18) years of age or older if ~~[while]~~ hunting in ~~[from]~~ a department waterfowl blind at Ballard ~~[WMA]~~ or Boatwright WMA.

~~(5) [(e)]~~ At Ballard WMA:

~~(a) [Wildlife Management Area:~~

1. ~~Waterfowl hunting shall be permitted during an open waterfowl season occurring before~~  
October 15.

2. The duck, coot, and merganser season shall be December 9 [3] through January 31 [25].

(b) [3.] The goose season shall be December 9 [3] through January 31.

(c) [4.] Youth waterfowl season shall be the first full weekend in February.

(d) [5.] A person hunting waterfowl [hunter] shall not hunt on [a] Monday, Tuesday, Christmas  
Day, or New Year's Day.

(e) [6.] A person hunting waterfowl [hunter] shall:

1. [a.] Apply for the waterfowl quota hunt as established in [advance in accordance with] Section  
6 of this administrative regulation;

2. [b.] Case a [his] gun if [while] using department-supplied transportation to and from a  
waterfowl blind;

3. [c.] Not hunt waterfowl on the Ohio River from fifty (50) yards upstream of [from] Dam 53 to  
fifty (50) yards downstream from the southern border of [the] Ballard Wildlife Management  
Area from October 15 through March 15; and

4. Exit [d. ~~Waterfowl hunters shall exit~~] the area by 2 p.m. during the regular waterfowl season,  
except as authorized by the department.

(6) [(d)] At Boatwright WMA, [~~Wildlife Management Area,~~] including the Olmsted, Peal, [Peal]  
and Swan Lake units:

(a) A party [1. Each party] shall:

1. [a.] Not hunt on [a] Monday, Tuesday, Christmas Day or New Year's Day;

2. Obtain a daily check-in card by 8 a.m. before entering the area from December 9 through  
January 31.

~~3. [b. Have in their possession, by 8 a.m. during the December 3 through January 31 segment of the waterfowl season, a daily check-in card before entering the area to set a blind, place decoys, or hunt; and~~

~~e.] Check out the same day by:~~

~~a. [(i)] Visiting a department[-designated] check station prior to 8 a.m.; or~~

~~b. [(ii)] Depositing the check-in [a] card at a department-designated drop point after 8 a.m.~~

~~(b) [2.] Duck season shall be open one-half (1/2) hour before sunrise to sunset beginning Thanksgiving Day for four (4) consecutive days on areas [portions] of Boatwright WMA that are [Wildlife Management Area] open to hunting.~~

~~(c) [3.] A department blind or blind site shall be assigned through a daily drawing [draw] from December 2 [3] through January 31.~~

~~(d) [4.] A blind or blind site shall be offered to another hunter on a first-come, first-served basis, if the blind or blind site has not been assigned during the daily drawing [draw that day].~~

~~(e) [5.] Waterfowl hunters shall exit the area by 2 p.m. during the regular waterfowl season.~~

~~(f) A boat blind [, except as authorized by the department.~~

~~6. Boat blinds] shall not be permitted in flooded timber, except:~~

~~1. During [during] periods of flood if [when] no other access is possible; or~~

~~2. A mobility-impaired hunter [possible and except mobility-impaired hunters] may hunt from a boat, and the 200 yard minimum distance restriction, as established in Section 4 of this administrative regulation, shall not apply to a person assisting a mobility-impaired hunter.~~

~~(g) [with no set-back restriction for those in the party assisting with the hunt. When boat blinds are permitted, there shall be a 200 yard minimum distance between boat blinds.~~

~~7.] A party shall only hunt waterfowl;~~

1. From [from] a [permanent] department blind; or

2. From layout blinds [or layout blind(s)] set so [in such a manner] that all layout blinds in the party lie within a twenty-five (25) foot radius from the center of the party, and within 200 yards of a blind site in December and January during the regular waterfowl season.

(h) ~~;~~ or

8. ~~A party shall only hunt waterfowl from a blind site or within 200 yards of a blind site assigned by the department during the December and January segment of the waterfowl season.~~

9.] On the Peal unit:

1. ~~[a:]~~ More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;

2. ~~[b:]~~ More than four (4) parties shall not hunt at the same time on Fish Lake;

3. ~~[c:]~~ More than three (3) parties shall not hunt at the same time on First Lake or Second Lake;

4. ~~[d:]~~ A party shall not hunt waterfowl except ~~[from]~~ within twenty-five (25) feet of a blind site ~~[assigned by the department]~~ during December and January.

(i) ~~[10:]~~ On the Swan Lake Unit:

1. ~~A [Unit, a] person shall not hunt waterfowl from November 26 through December 6;~~

2. The area open to hunting during the regular waterfowl season shall be open for the Light Goose Conservation Order season as established in 301 KAR 2:221; and

3. Blind restrictions shall not apply to the Light Goose Conservation Order season.

(7) ~~[duck, coot, merganser, or goose other than a Canada Goose except from a blind or blind site assigned by the department and unless:~~

a. ~~The season for these species is open; and~~

b. ~~The season for Canada Goose is also open.~~

c. ~~Except, that area open for hunting during the Canada goose season shall also be open during~~

~~the Snow Goose Conservation Order without blind restrictions.~~

~~(4) Barkley] Lake Barkley WMA.~~

~~(a) A permanent blind shall only be established within ten (10) yards of a blind site;~~

~~(b) Waterfowl refuge areas:~~

~~1. The area west of the Cumberland River channel, as marked by buoys, between river mile fifty-one (51), at Hayes Landing Light, south to the Tennessee Valley Authority's power transmission lines at river mile fifty-five and five-tenths (55.5) shall be closed from November 1 through February 15; and~~

~~2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, shall be closed from November 1 through March 15.~~

~~(c) A person shall not hunt from October 15 through March 15:~~

~~1. On Duck Island; or~~

~~2. Within 200 yards of Duck Island.~~

~~(8) [Wildlife Management Area.~~

~~(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.~~

~~(b) A person shall establish a permanent blind within ten (10) yards of his or her blind site within:~~

~~1. An area bounded by the mouth of Donaldson Creek, the east side of the Cumberland River Channel and the boat ramp at Linton.~~

~~2. An area bounded by the Pryor's Creek Light, the west side of the Cumberland River Channel, Land Between the Lake Road 204 and river mile 73.5.~~

~~(c) The following refuge areas are closed to the public:~~

~~1. From November 1 through February 15 within an area west of the main river channel between~~

1 ~~river mile 51 (Hayes Landing Light) and the TVA power transmission lines at river mile 55.5.~~

2 ~~2. From November 1 through March 15 within Honker Bay and Fulton Bay as marked by buoys~~  
3 ~~and signs.~~

4 ~~(d) From October 15 through March 15, a person shall not hunt:~~

5 ~~1. Within 200 yards of; or~~

6 ~~2. Within the area defined by the levee between river mile 68.4 and river mile 70.4.]~~

7 ~~(5)] Barren River Lake WMA. [Wildlife Management Area.~~

8 ~~(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.~~

9 ~~(b)] A person hunting waterfowl [hunter]:~~

10 ~~(a) [1.] May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and~~

11 ~~(b) [2.] Shall not use a breech-loading firearm elsewhere on the area.~~

12 ~~(9) [(6) Buckhorn Lake Wildlife Management Area. A permanent blind may be used as specified~~  
13 ~~in Section 4 of this administrative regulation.~~

14 ~~(7)] Miller Welch-Central Kentucky WMA. [Wildlife Management Area.] A person shall not~~  
15 ~~hunt waterfowl from October 15 through January 14.~~

16 ~~(10) [(8) Cumberland] Lake Cumberland WMA. [Wildlife Management Area.] The following~~  
17 ~~sections shall be closed to the public from October 15 through March 15:~~

18 ~~(a) The Wesley Bend[, the] area, bounded by Fishing Creek, Beech Grove Road and Fishing~~  
19 ~~Creek Road; and[.]~~

20 ~~(b) The Yellowhole[, the] area, bounded by Fishing Creek Road and Hickory Nut Road.~~

21 ~~(11) [(9) Daniel Boone National Forest] Pioneer Weapons WMA. [Wildlife Management Area.]~~

22 ~~A person hunting waterfowl [hunter]:~~

23 ~~(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and~~

- 1 (b) Shall not use a breech-loading firearm elsewhere on the area.
- 2 ~~(12)~~ [(10)] Doug Travis WMA.
- 3 (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
- 4 (b) A person hunting waterfowl [~~Waterfowl hunters~~] shall exit the area by 2 p.m. during
- 5 waterfowl season, except as authorized by the department.
- 6 (c) On Forked Lake, Indian Camp Lake, Fish Lake, Number Four Lake, and Black Lake, all
- 7 waterfowl hunting after November 1:
- 8 1. Shall be from blind sites assigned by a random preseason drawing; and [~~draw~~.]
- 9 2. Shall be within ten (10) yards of a blind site, including [~~even during~~] periods of Mississippi
- 10 River flooding.
- 11 ~~(13)~~ [(11)] Grayson Lake WMA. [~~Wildlife Management Area~~.] A person shall not hunt
- 12 waterfowl:
- 13 (a) Within the no-wake [~~no wake~~] zone at the dam site marina;
- 14 (b) From the shore of Camp Webb;
- 15 (c) On Deer Creek Fork; and
- 16 (d) Within three-quarters (3/4) of a mile from the dam.
- 17 ~~(14)~~ [(12)] Green River Lake WMA. [~~Wildlife Management Area~~.]
- 18 ~~(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.~~
- 19 ~~(b)~~ Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
- 20 ~~(15)~~ [(13)] Kaler Bottoms WMA. [~~Wildlife Management Area~~.] Shooting hours shall be one-half
- 21 (1/2) hour before sunrise until 2 p.m.
- 22 ~~(16)~~ [(14)] Land Between the Lakes National Recreation Area.
- 23 (a) The following portions shall be closed to the public from November 1 through March 15:

1 1. Long Creek Pond;

2 2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and

3 3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys;-]

4 (b) The following portions shall be closed to waterfowl hunting:

5 1. The Environmental Education Center; and

6 2. Energy Lake.

7 (c) A person shall possess an annual Land Between the Lakes Hunting Permit if [when] hunting

8 waterfowl:

9 1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

10 2. From a boat on [over] a flooded portion of Land Between the Lakes when the lake level is

11 above elevation 359.

12 (d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

13 (e) A person shall not establish or use a permanent blind:

14 1. On an inland area; or

15 2. Along the Kentucky Lake shoreline of Land Between the Lakes.

16 (f) A person hunting waterfowl [hunter] shall remove decoys and personal items [effects] daily.

17 ~~(17) [(15) Nolin River Lake Wildlife Management Area. A permanent blind may be used as~~

18 ~~specified in Section 4 of this administrative regulation.~~

19 ~~(16)] Obion Creek WMA. [Wildlife Management Area.] Shooting hours shall be [are] one-half~~

20 ~~(1/2) hour before sunrise until 2 p.m.~~

21 ~~(18) [(17)] Ohio River Islands WMA. [Waterfowl Refuge.]~~

22 (a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the

23 Ohio River from Smithland Lock and Dam upstream to the [a] power line crossing at

approximately river mile 911.5.

(b) Stewart Island shall be closed to ~~the~~ public access from October 15 through March 15, except for those drawn for a quota deer hunt ~~hunting~~.

~~(19) [(18)]~~ Peabody WMA. ~~[Wildlife Management Area.]~~

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) The following areas, ~~portions,~~ as posted by signs, shall be ~~are~~ closed to the public from October 15 through March 15:

1. The Sinclair Mine area, ~~as~~ bounded by Hwy 176, the haul road, and Goose Lake Road ~~as posted by signs~~; and

2. The Ken area, ~~Homestead as~~ bounded by ~~Cool Spring~~ Wysox Road, H2 Road, H1 Road, and H6 Road.

~~(20) [Road, and areas posted by signs.~~

~~(19) The main block of]~~ Robinson Forest WMA. The main block of the WMA ~~[Wildlife Management Area]~~ shall be closed to waterfowl hunting.

~~(21) [(20)]~~ Sloughs WMA. ~~[Wildlife Management Area.]~~

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person hunting waterfowl ~~[Waterfowl hunters]~~ shall exit the area by 2 p.m. during the regular waterfowl season~~[-except as authorized by the department]~~.

(c) On the Grassy-Pond Powell's Lake Unit, a person hunting waterfowl ~~hunter~~:

1. Shall hunt:

a. From ~~use~~ a department ~~permanent~~ blind; or

b. From a blind within twenty-five (25) yards of a blind site. ~~[provided by the department;]~~

2. Shall remove decoys and personal items from the area on a daily basis. ~~[effects from a blind or~~

1 the vicinity of a blind daily; and

2 ~~3. A permanent blind may be used as specified in Section 4 of this administrative regulation.]~~

3 (d) On the Jenny Hole-Highlands Creek Unit, a person hunting waterfowl ~~[hunter]~~:

4 1. Shall hunt:

5 a. From a department blind;

6 b. From a blind within twenty-five (25) yards of a blind site; or

7 c. From a blind that is no closer than 200 yards of another hunting party. ~~[not establish or hunt~~  
8 ~~from a blind closer than 200 yards from another hunting party; and]~~

9 2. Shall remove decoys and personal items from the area on a daily basis. ~~[effects from blinds or~~  
10 ~~the vicinity of blinds daily.~~

11 ~~3. A permanent blind may be used as specified in Section 4 of this administrative regulation.]~~

12 (e) If the Ohio River reaches a level that requires boat access, a waterfowl hunter:

13 1. May hunt from a boat without regard to department blinds; and

14 2. Shall not hunt closer than 200 yards from another boat.

15 (f) A person hunting waterfowl ~~[hunter]~~ on the Crenshaw and Duncan Tracts of the Sauerheber  
16 Unit:

17 1. Shall hunt from a a ~~[the]~~ blind assigned by the department through a drawing as established  
18 [stipulated] in Section 6 of this administrative regulation;

19 2. May occupy a permitted blind if not claimed by the permittee within one (1) hour before  
20 sunrise;

21 3. Shall not possess more than fifteen (15) shotgun shells, except that the shotgun shell  
22 possession limit shall be twenty-five (25) if:

23 (a) The ~~[Shall be limited to twenty-five (25) shells when the]~~ daily bag limit for ducks is greater

1 than three (3) [~~and the Canada goose limit is greater than or equal to two (2)~~]; and

2 (b) The

3 [~~4. Shall be limited to fifteen (15) shells when the~~] daily bag limit for [~~ducks is less than or equal~~  
4 ~~to three (3) and the~~] Canada goose [~~limit~~] is greater [~~less~~] than or equal to two (2);

5 4. [5.] Shall be accompanied by an adult if under eighteen (18) years of age; and

6 5. [6.] The waterfowl blind for a mobility-impaired person shall [~~persons will~~] be open to the  
7 public [~~only~~] if the permit holder or another mobility-impaired person has not claimed the blind  
8 [~~has not shown up to hunt~~] on that day by one (1) hour before sunrise.

9 (g) The Crenshaw and Duncan II tracts of the Sauerheber Unit shall be closed to hunting except  
10 for:

11 1. Waterfowl [~~waterfowl~~] from November 1 through March 15; and

12 2. The modern gun deer season.

13 (h) The remainder of the Sauerheber Unit shall be closed to the public from November 1 through  
14 March 15.

15 (22) [(21)] South Shore WMA. [~~Wildlife Management Area.~~]

16 (a) The WMA shall be closed [~~Closed~~] to [~~all~~] hunting from November 15 through January 15,  
17 [~~30,~~] except for quota [~~hunt~~] waterfowl hunting and dove hunting.

18 (b) The quota hunt shall require [~~requires~~] advance application and selection.

19 (c) A hunter [~~Hunters~~] shall use a department blind. [~~blinds.~~]

20 (d) A department blind shall be [~~Department blinds are~~] allocated by a preseason drawing.

21 (23) [draw. Applicants shall mail a three (3) by five (5) white index card with hunter information  
22 in an envelope to Grayson Lake WMA post marked between November 1 and November 15.

23 (22)] Taylorsville Lake WMA. [~~Wildlife Management Area.~~] Shooting hours shall be one-half

1 (1/2) hour [~~thirty (30) minutes~~] before sunrise until 2 p.m.

2 (24) [(23)] Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting,  
3 unless authorized by Yatesville Lake State Park:

4 (a) The Greenbrier Creek embayment; and  
5 (b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam,  
6 including the island.

7 ~~(25) [Wildlife Management Area. The Greenbrier Creek Branch of Yatesville Lake, and~~  
8 ~~Yatesville Lake, including all of the islands, north of the mouth of the Greenbrier Creek Branch~~  
9 ~~shall be closed to all waterfowl hunting.~~

10 ~~(24)] Yellowbank WMA. [Wildlife Management Area.]~~ The area designated by a sign and  
11 painted boundary marker shall be closed to the public from October 15 through March 15.

12 Section 5. ~~[6.]~~ (1) A person applying [~~wishing~~] to [~~apply to~~] hunt waterfowl on Ballard WMA or  
13 the Sauerheber Unit of Sloughs WMA [~~Wildlife Management Areas~~] shall:

14 (a) Apply through [~~to~~] the vendor supplied by the department by calling 1-877-598-2401 [~~(877)~~  
15 ~~598-2401~~];

16 (b) Apply from [~~Register between~~] September 1 through [~~and~~] September 30; [~~and~~]

17 (c) Pay a three (3) dollar application fee for each application; and

18 (d) Not [.

19 ~~(2) A person shall not~~] apply more than one (1) time for each hunt.

20 (2) A person drawn to hunt [~~(3) Each hunter drawn~~] may bring up to three (3) additional hunters.

21 (3) [(4)] A person shall be declared ineligible to hunt in department waterfowl quota hunts  
22 during the remaining portion of the waterfowl season and declared ineligible to apply for any  
23 department quota hunt the following year if the hunter violates state or federal regulations while

1 waterfowl hunting on WMAs that have ~~[in which hunter numbers are regulated as part of]~~ a  
2 preseason or daily drawing.

3 Section 6. ~~[7.]~~ State Parks. (1) Waterfowl hunting shall be prohibited, except there ~~[There shall~~  
4 ~~be no waterfowl hunting on state parks except as specified in the subsection (2) of this section.~~

5 ~~(2) State Parks.~~

6 ~~(a) There]~~ shall be an open waterfowl hunt December 13 through January 31 on designated areas  
7 of Barren River, Grayson Lake, Greenbo Lake, Lake Barkley, Lincoln Homestead, Paintsville  
8 Lake, Pennyrite Lake, and Yatesville Lake State Parks.

9 ~~(2) [(b)]~~ Hunters shall check in each day at the front desk of the state park or a designated check-  
10 in location on days that ~~[in which]~~ the park office is not open.

11 ~~(3) [(e)]~~ During check-in hunters shall be provided a map showing designated areas of the park  
12 that are open to waterfowl hunting.

13 ~~(4) [(d)]~~ Hunters shall check out each day at the front desk of the state park or a designated  
14 check-out location on days that ~~[in which]~~ the park office is not open.

15 ~~(5) [(e)]~~ Statewide waterfowl hunting requirements shall apply.

16 Section 7. Youth-Mentor and Mobility-Impaired ~~[8. Mentor]~~ Waterfowl Hunts ~~[at Minor Clark~~  
17 ~~and Peter W. Pfeiffer Fish Hatcheries]~~. (1) There shall be youth-mentor waterfowl ~~[mentor]~~  
18 hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries.

19 (2) There shall be a mobility-impaired waterfowl hunt at Minor Clark Fish Hatchery that is held  
20 concurrently with the youth-mentor hunt.

21 (3) The date of each hunt ~~[Dates]~~ shall be ~~[determined and]~~ published in the annual ~~[current]~~  
22 Waterfowl Hunting Guide.

23 (4) A youth or mobility-impaired person ~~[(3) Youths]~~ shall register in advance and carry a

1 department provided postcard notification on ~~[for]~~ the day of the hunt.

2 (5) A mobility-impaired person shall also submit a mobility-impaired access permit.

3 (6) Each youth ~~[(4) Youths]~~ shall be accompanied by an adult who is eighteen (18) years or

4 older.

5 (7) Each ~~[(5) One (1)]~~ youth shall not be accompanied by more than one (1) adult.

6 (8) [(6)] One (1) adult may accompany two (2) youths.

7 (9) A mobility-impaired hunter may be accompanied by no more than one (1) assistant who may

8 also hunt.

9 (10) A person shall hunt from an established blind and shall not change blinds.

10 (11) A blind shall not be used by more than four (4) hunters.

11 (12) A person shall only discharge a firearm from a blind.

12 (13) A person shall not possess more than fifteen (15) shotshells.

13 (14) A waterfowl hunter, mentor, or assistant

14 ~~[(7) Hunting shall only be permitted from established blinds and hunters shall not change blinds.~~

15 ~~(8) Four (4) hunters shall be permitted per blind.~~

16 ~~(9) Hunters may only discharge firearms from the blind.~~

17 ~~(10) Hunters may only have fifteen (15) shotshells per hunter.~~

18 ~~(11) Hunters]~~ shall immediately retrieve downed birds.

19 (15) A person shall encase a firearm if ~~[Chasing or harassing waterfowl outside the blinds is~~

20 ~~strictly prohibited.~~


21 ~~(12) Firearms shall be encased when]~~ traveling to and from a ~~[the]~~ blind.

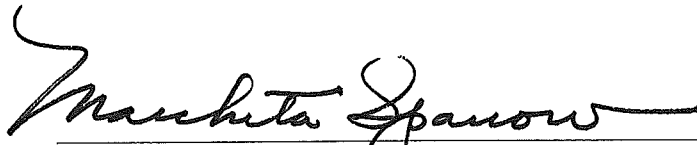
22 (16) [(13)] Hunting shall end at noon, ~~[noon]~~ and hunters shall exit the area ~~[be off the premises]~~

23 by 1 p.m.

- 1    ~~(17)~~ [(14)] All decoys and equipment shall be removed at the end of each day's hunt.
- 2    ~~(18)~~ A hunter [~~(15)~~ Hunters] shall report harvest by depositing a completed [~~dropping~~] hunt
- 3    permit at the designated location.

Approved by the Fish and Wildlife Commission August 14, 2009

  
Benjy Kimman, Deputy Commissioner, for  
Dr. Jonathan Gassett, Commissioner  
Department of Fish and Wildlife Resources

  
Marcheta Sparrow, Secretary  
Tourism, Arts and Heritage Cabinet

Date 10/26/09

## **Regulatory Impact Analysis And Tiering Statement**

301 KAR 2:222E. Waterfowl Hunting Requirements

Contact Person: Rose Mack

(1) Provide a brief summary of:

- (a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons, bag limits and requirements on public lands within federal migratory bird hunting frameworks established in 50 CFR Part 20 according to the U.S. Fish and Wildlife Service.
- (b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2009–2010 waterfowl hunting requirements in accordance with the U.S. Fish and Wildlife Service and Kentucky Department of Fish and Wildlife Resources management objectives.
- (c) How does this administrative regulation conform to the authorizing statute: KRS 150.025 authorizes the department to establish hunting season dates, bag limits and other hunting requirements on public lands managed for waterfowl and public hunting opportunity by the Department.
- (d) How will this administrative regulation assist in the effective administration of the statutes: By establishing waterfowl hunting seasons and area-specific requirements, this administrative regulation is maintaining and managing waterfowl conservation efforts consistent with state, national and international management goals for this important natural resource.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change the existing administrative regulation: This is an amendment to an existing regulation. Each fall the U.S. Fish and Wildlife Service issues a federal mandate establishing frameworks for waterfowl hunting seasons in the United States. This amendment reflects the federal mandate regulations for waterfowl hunting within the requirements of the Migratory Bird Treaty Act. This amendment will allow hunters who are drawn to hunt at Sloughs WMA the ability to hunt waterfowl within 25 yards of certain full-season blind locations. It also opens up the Minor Clark Hatchery youth and mentor quota hunt drawings to mobility-impaired individuals.
- (b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to this administrative regulation is to implement the federal mandate from the U.S. Fish and Wildlife Service and continue efforts to increase quality hunting opportunity for waterfowl and migratory game birds.
- (c) How does the amendment conform to the authorizing statutes: See (1)(c) above.
- (d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either

the implementation of this administrative regulation, if new or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will have to review the hunting guide or website for the updated information to hunt legally during the specified season.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be continued opportunity to hunt waterfowl in the state.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: This administrative regulation change will result in no additional cost to the Kentucky Department of Fish and Wildlife Resources to administer.
  - (b) On a continuing basis: There will be no additional cost on a continuing basis.
- (6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase any other fees or funding to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No new fees will be established.
- (9) TIERING: Is tiering applied? (Explain why tiering was or was not used) Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 301 KAR 2:222E

Contact Person: Rose Mack

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes   X   No       

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife. KRS 150.360(1) authorizes the department to promulgate administrative regulations to restrict the methods for the taking of wildlife.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## **FEDERAL MANDATE ANALYSIS COMPARISON**

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 CFR Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.
2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons which are within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 CFR Part 20, 21.
3. Minimum or uniform standards contained in the federal mandate. 50 CFR Part 20 contains season frameworks for the following: earliest opening and latest closing date, maximum number of days a specie(s) is open to hunting, and daily bag and possession limits. 50 CFR Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the maximum permitted under the federal regulations. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state stocks of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public wetlands managed by KDFWR. KDFWR imposes more restrictive hunting regulations on these lands in effort to meet international waterfowl management objectives while still providing quality hunting opportunity consistent with waterfowl population objectives.